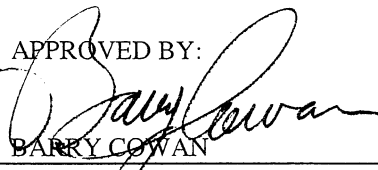


☒ R/W MANUAL CHANGE
(1993 Edition)

RWMC- 146

☐ PROCEDURAL HANDBOOK
(1984 Edition)

RWPH-____-____-____
TRANSMITTAL#____

TITLE: EXCESS LAND	APPROVED BY:  BARRY COWAN	DATE ISSUED: FEB 23 2005
SUBJECT AREA: CHAPTER 16 - EXCESS LAND	ISSUING UNIT: OFFICE OF REAL PROPERTY SERVICES, AIRSPACE, AND ASSET MANAGEMENT	Page 1 of 1
SUMMARY OF CHANGES: Revises 16.10.00.00.		

PURPOSE

This manual change clarifies the authority to sell to present occupants at fair market value.

Formatting update has been applied and any typographical errors have been corrected throughout this manual change.

BACKGROUND

Per Government Code Section 54237(e), present occupants may purchase surplus residential property at fair market value only after higher priority offers are unsuccessful, unless the affordable price exceeds the fair market value.

PROCEDURES

16.10.06.04 Clarifies the authority to sell to present occupants at fair market value as an alternative to a sale at an affordable price.

EFFECTIVE DATE

Immediately.

MANUAL IMPACT

- Remove the superseded pages and insert the attached pages in the Manual.
- Record the action on the Revision Record.

REVISION SUMMARY

<u>Chapter</u>	<u>Remove Old Pages</u>	<u>Insert New/Revised Pages</u>
	Remove the following in its entirety:	Replace with the following in its entirety:
16 - Sections	16.10.00.00 (Rev. 1/99)	16.10.00.00 (REV 1/2005)

16.10.00.00 - SALES OF SURPLUS RESIDENTIAL PROPERTIES AND REPLACEMENT HOUSING

16.10.01.00 Sales of Surplus Residential Properties (SB 86-Roberti Bill)

Government Code Sections 54235, et seq., were added in 1979 pursuant to SB 86 (Roberti). These statutes require the Department of Transportation (Department) and other State agencies to dispose of surplus residential property (as defined) in accordance with procedures meant to:

- Preserve, upgrade, and expand the supply of housing available to persons and families of low or moderate income.
- Mitigate environmental effects, within the meaning of Article XIX of the California Constitution, caused by highway activities.

Section 54238.3(a), added in 1982, states that the sale of surplus residential property pursuant to Section 54235, et seq.:

“ . . . shall apply only to surplus residential properties which were acquired for a State project, for which at least 20 dwelling units were acquired and owned by the State on January 1, 1980, or on the date the properties were declared to be surplus, whichever date occurs later. For the purpose of this Section, a freeway route and its interchanges shall be considered one State project. Except for State Highway Route 7 in Los Angeles County, this article shall not apply to freeway routes rescinded on or after January 1, 1984.”

NOTE: The above language effectively limits sale of surplus residential property at an affordable or reasonable price to the route segments on the table below entitled “Roberti Bill Surplus Residential Property.”

ROBERTI BILL SURPLUS RESIDENTIAL PROPERTY		
Route	County	Status
Routes 143 and 244	Sacramento County	Sales completed
Route 92 between Route 17 (580) and adopted Route 238	Alameda County	Sales completed
Route 2 between Route 101 and Glendale Boulevard	Los Angeles County	Sales completed
Route 7 (710) between Route 10 and Route 210	Los Angeles County	Future of project undetermined

16.10.02.00 Definitions

16.10.02.01 Offer

To solicit proposals prior to sale in a manner calculated to achieve a sale under the conditions specified and to hold such offer open for a reasonable period of time. The time shall be no more than one year unless the selling agency, at its discretion, extends the time for a specified period.

16.10.02.02 **Affordable Price**

- **Purchaser, other than lower income household** - the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the U.S. Department of Housing and Urban Development (HUD) issued pursuant to Section 235 of the National Housing Act.
- **Purchaser that is lower income household** - the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income determined in accordance with HUD regulations issued pursuant to Section 8 of the United States Housing Act of 1937.

16.10.02.03 **Single-Family Residence**

A real property improvement used, or intended to be used, as a dwelling unit for one family.

In those instances where there are two or more separate improvements on a site, each of which is used (or intended to be used) as a dwelling unit for one family, consideration will be given to splitting or subdividing the site.

16.10.02.04 **Surplus Residential Property**

Land and structures owned by any State agency that is determined to no longer be necessary for such agency's use and is developed as single-family or multi-family housing, except property being held by the agency for the purpose of exchange.

"Surplus residential properties shall only include land and structures which, at the time of purchase by the State, the State had intended to remove the residence thereon and to use the land for State purposes."

In general, this definition applies only to improved residential properties that have become surplus by virtue of route rescission, route downscoping, and design changes.

The following types of properties are not considered as surplus residential property and will be disposed of in the normal manner:

- Residential improvements located on Department maintenance station sites or other operational sites that have been declared excess.
- Residential improvements located on lands that were acquired as excess wherein the Department did not intend to remove the improvements at the time of purchase.
- Surplus residential property being held by the Department for the purpose of exchange.
- Residential improvements located on agricultural lands if the improvements are used in conjunction with farm operations.
- Residential improvements that were acquired specifically for replacement housing purposes.

Any property that otherwise meets the definition of surplus residential property but is currently being used for a residential purpose that is inconsistent with the zoning or local jurisdiction's general plan for the property must be submitted to HQ R/W and Legal for review prior to disposal. Examples of such property include occupied housing units on an industrially or commercially zoned site or located on land that clearly has a higher and better use.

16.10.02.05 **Displacement**

Includes, but is not limited to, persons who will have to move from surplus residential property they occupy when it is sold by a State agency because they are unable to afford to pay the price the State agency is asking for the residential property.

16.10.02.06 **Fair Market Value**

Fair market value (see Appraisal Chapter) as of the date the Department makes the offer of sale pursuant to provisions of these statutes.

16.10.02.07 **Affordable Rent**

- **Occupant person or family other than person or family of low or moderate income** - rent for residential property that is not more than 25% of the occupant household's gross monthly income.
- **Occupant person or family of low or moderate income** - rent for residential property that is not more than the percentage of the adjusted income of the occupant or family as permitted under HUD regulations issued pursuant to Section 8 of the United States Housing Act of 1937, but not in excess of the market rental value for comparable property.

16.10.02.08 **Area Median Income**

Median household income, adjusted for family size as determined in accordance with HUD regulations issued pursuant to Section 235 of the National Housing Act, as amended (P.L. 90-448), for the Standard Metropolitan Statistical Area (SMSA) in which surplus residential property to be disposed of pursuant to this article is located, or the county in which such property is located if it is outside an SMSA.

16.10.02.09 **Persons and Families of Low or Moderate Income**

Persons and families of low or moderate income as defined by Section 50093 of the Health and Safety Code.

16.10.02.10 **Lower Income Households**

Lower income households as defined in Section 50079.5 of the Health and Safety Code:

“Lower income households’ means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of United States Housing Act of 1937. The limits shall be published by the department in the California Administrative Code as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event such federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the State at eighty percent of area median income, adjusted for family size and revised annually. As used in this section, ‘area median income’ means the median family income of a geographic area of the State.”

16.10.03.00 **Procedures**

16.10.03.01 **Disposal of Surplus Land and Improvements**

Whenever a surplus residential property consists of both a residentially-improved site and additional unimproved land capable of independent use/development, the total property shall be formally split or subdivided wherever possible so the unimproved land can be sold in the normal manner and independent from the improved portion of the property.

Residential improvements located on agricultural lands are not considered surplus residential property if the improvements are used in conjunction with farm operations.

A purchaser of a surplus residential property at less than fair market value may not subdivide the property and sell one portion at fair market value, even if the proceeds from the sale are to be used for low and moderate income housing on the remaining portion.

16.10.03.02 **Payment of Transfer Costs**

When selling surplus residential properties at or below fair market value, the Department may pay various costs such as points, recording fees, appraisal fees, title insurance, documentary stamp taxes, and others associated with the sale.

If an analysis of open market sales in the area indicates a particular custom, the Department shall follow that custom as long as the net is no less than the original acquisition price. Except, net proceeds may be reduced to less than the original acquisition price by the amount required for repairs.

The Department cannot participate in the cost of impounds, property taxes, and homeowners' insurance.

The Agreement for the Purchase of Real Property between the Department and the buyer is acceptable as supporting documentation for a claim schedule if the Department will pay such costs outside of escrow.

16.10.03.03 **Unlawful Tenants**

If present occupants (tenants) become delinquent in their rental payments or breach their Rental Agreement in another manner (such as overcrowding), the tenants should immediately be advised that such actions could jeopardize the benefits they are entitled to or that may be accruing under Government Code Sections 54235, et seq.

16.10.04.00 **Sales of Single-Family Residences - Priorities**

Government Code Section 54237 sets forth the following priorities for the disposal of single-family residences:

- All single-family residences presently occupied by their former owners shall be offered to such former owners at the appraised fair market value.
- All single-family residences shall be offered at an affordable price to present occupants (tenants) who have occupied the property two years or more and who are persons and families of low or moderate income.
- All single-family residences shall be offered at an affordable price to present occupants (tenants) who have occupied the property five years or more and whose household income does not exceed 150% of the area median income.

NOTE: Affordable price shall not be less than the price paid by the Department, unless the acquisition price was greater than the current fair market value, and shall not be greater than fair market value.

- All single-family residences that are not purchased by former owners or eligible present occupants shall be offered at a reasonable price to housing-related private and public entities.
- Any surplus single-family residence not purchased pursuant to the above shall be sold at fair market value, with priority given first to purchasers who are present occupants (tenants) and then to purchasers who will be owner occupants.

16.10.05.00 **Sales to Former Owners Still in Occupancy**

Sales to former owners still in occupancy at appraised fair market value shall be handled as shown in the table below.

Step	Responsible Party	Action
1.	Excess Land	Meet with former owners to determine interest.
2.	District RAP and Property Management	Determine repairs necessary to bring residence up to DS&S condition.
3.	Excess Land	Obtain current staff fair market value appraisal of residence reflecting repairs to be made.
4.	RAP	Calculate relocation assistance entitlements. Prepare and obtain approval of RAP claim.
5.	Excess Land	Make offer to former owner and obtain executed copy of Agreement for the Purchase of Real Property, Sale to Present Occupants, Form RW 16-9. NOTE: Eliminate references to Affordable Sales Price Calculation form and Right to Purchase Agreement between the Department and buyer since these documents are not used in fair market value sales to former owners.
6.		Submit transaction to CTC for approval (Form RW 16-8).
7.		Open escrow.
8.	Property Management	Expedite completion of necessary repairs.
9.	Excess Land	Close escrow.

16.10.06.00 **Sales to Eligible Present Occupants (Tenants)**

16.10.06.01 **Eligibility Determination**

Government Code Section 54237 establishes two eligibility requirements, as shown in the following table, for present occupants (tenants) based on term of residency and income limitations.

NOTE: The income limitations and term of residency requirements apply to all surplus single-family residence sales except sales on rescinded route 07-LA-2 in the Silver Lake-Echo Park area of the City of Los Angeles. Such sales are excepted by Government Code Section 54237(c); i.e., sales on rescinded route 07-LA-2 were described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code and initiated prior to enactment of Government Code Section 54235, et seq.

ELIGIBILITY REQUIREMENTS - PRESENT OCCUPANTS		
Requirement	Explanation	Test
Minimum Term of Residency	Present occupants' term of residency can be determined by reviewing the Rental Agreement.	<ol style="list-style-type: none"> 1) If present occupants' term of residency is less than two years, occupants fail the first test of eligibility. 2) If present occupants' term of residency will become two years or more, however, before sale of the residence can be finalized pursuant to other provisions of Government Code Sections 54235, et seq., they pass the first test of eligibility for direct purchase. 3) If present occupants' term of residence is two years or more, they pass the first test of eligibility.
Income Limitations and Reevaluation of Residency	<p>Present occupants (tenants) who pass the initial term of residency test of eligibility shall certify their income by completing and signing an Income Certification, Form RW 16-10.</p> <p>Exhibit 16-EX-18 is a Table of Income Limits, adjusted for family household size, for counties in California. HCD will periodically adjust these income limits, and HQ R/W will forward the information to the districts.</p>	<ol style="list-style-type: none"> 1) Present occupants (tenants) with household incomes up to 120% of the area median income, adjusted for family size, must have a term of residency of two years or more. 2) Present occupants (tenants) with household incomes over 120% but not exceeding 150% of the area median income must have a term of residency of five years or more. 3) Present occupants (tenants) with household incomes in excess of 150% of the area median income fail the income limitation test and do not qualify to directly purchase the residence in which they reside at an affordable price.

16.10.06.02 **Income Certification**

The Income Certification is the most important step in the sales process since the affordable sales price is based on actual and expected income for all occupants.

Prospective home buyers normally maximize reported income on a loan application to qualify for the maximum loan possible. In the disposal of surplus single-family residential properties pursuant to Government Code Sections 54235, et seq., however, it is to the prospective buyers' (present occupants') advantage to disclose minimum income so as to minimize the affordable sales price.

When interviewing the occupants to complete the Income Certification, the Agent should ask them directly about each potential income source listed on the form.

16.10.06.03 **Income Verification**

The affordable sales price is not based on the unsupported word and Income Certification of the present occupants/prospective buyers. Excess Land must make diligent efforts to secure acceptable verification of income from an independent third party.

When there is a difference of opinion between the occupants and the Department, the Department's position prevails. Any decision must be fully documented and supported since the lender must be convinced an occupants' income is reliable for loan purposes.

Government Code Section 54237(c) states that Department:

“ . . . may verify such certifications, in accordance with procedures utilized for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency.”

The California Housing Finance Agency (CHFA) Program Manual for Participating Lenders and Localities states that:

“ . . . lenders must use the FNMA Guidelines to underwrite conventional loans . . . and that . . . good judgment should be used in reviewing income information.”

The Federal National Mortgage Association (FNMA) Conventional Selling Contract Supplement contains many of the provisions relating to sale of conventional mortgages to FNMA and represents the FNMA Guidelines referred to by CHFA. Section 311.03(c) of these FNMA Guidelines states that:

“In cases where either borrower is self-employed, Seller (Conventional Lender) should submit, if available, audited profit and loss statements plus balance sheets for the last two year-end periods prior to borrower's application to Seller for the mortgage loan and signed Federal Income Tax Returns from the previous two years.”

Conventional lenders can demand copies of Federal Income Tax Returns from any and all borrowers to verify their income. If the borrowers refuse, the lender can deny the loan application.

Excess Land shall adhere to the following income verification procedure:

Self-Employed Status	Documentation
Either occupant-purchaser is self-employed	Obtain, if available, profit and loss statements plus balance sheets certified by a Certified Public Accountant for the last two year-end periods prior to occupants' Income Certification and signed Federal Income Tax Returns for the same two years.
Neither occupant-purchaser is self-employed	Concurrently with execution of Department's Income Certification, have each and every member of the household 21 years of age or older sign a Request for Copy of Tax Returns (Internal Revenue Service Form 4506 - Exhibit 16-EX-19). The request forms are retained in the excess land file and used to verify at least 10% of all Income Certifications and any other difficult or questionable cases.

All Federal Income Tax records received must be maintained by the district in accordance with the Information Practices Act of 1977. See “Public Access to Department Records and Personal Information” for the Department’s guidelines.

In addition to Federal Income Tax Returns, Excess Land must use the following verification methods.

Method	Explanation
Written Verification	<p>Written verification of income provided by the source of income is preferred over any other form of verification. Other forms are acceptable only when unsuccessful attempts have been made to secure direct written verification.</p> <p>Excess Land should send the request for written verification of income directly to the occupant’s employer or other source of income. Written verification should be provided to Excess Land directly by the source of income without passing through the hands of the occupants or any other third party. When Excess Land has reason to question the validity of any verification, its accuracy should be confirmed by a telephone call to the source of income.</p>
Other Forms of Verification	<ul style="list-style-type: none"> • Telephone verification with details of call noted in parcel diary. • Pay stubs or checks, with those representing most recent period given more weight. • Standard Benefit Scales, as to public assistance or unemployment compensation for a family of a given composition. • Standard Minimum Income Scales. • Photostatic copy of a current savings account passbook in which the bank or savings and loan records the account balance. • Letter from occupants’ broker about stocks, bonds, and other forms of investment.

Excess Land should avoid duplicating a lender’s income and employment verification efforts if the lender can and will share the results of their efforts. Primary responsibility for determining the occupants’ income and their affordable sales price remains with the district however.

If income information provided by the occupants and verifying sources cannot be reconciled, Excess Land will establish the amount of income to be used as the basis for calculating the affordable sales price.

16.10.06.04 Affordable Sales Price Calculations

Present occupants who pass both the term of residency and income limitation tests shall be given the opportunity to purchase the residence in which they reside at an affordable price.

Affordable price has two definitions in Government Code Section 54236(b):

- **Purchasers that are lower income household** - The price that results in purchaser’s monthly payments not exceeding that portion of the purchasing household’s adjusted income as determined in accordance with HUD’s Section 8 Program regulations.
- **Purchasers other than lower income household** - The price that results in purchaser’s monthly payments not exceeding that portion of the purchasing household’s adjusted income as determined in accordance with HUD’s Section 235 Program regulations.

The two forms in the table below have been developed for calculating affordable sales prices.

Regardless of a present occupant's calculated affordable price (based on income), the final sales price cannot be less than the Department's original acquisition price nor greater than current fair market value.

If the present occupant cannot afford the original acquisition price, then that single-family residence must be disposed of pursuant to Government Code Section 54237(d).

CALCULATING AFFORDABLE SALES PRICES	
Form	Sources of Information
RW 16-11; Affordable Sales Price Calculations - Alternative A - where household income is below the lower income level.	For purposes of calculating an estimated affordable sales price, Excess Land should use schedules for maintenance and utilities available from the chief appraiser in the local HUD FHA area office. The final affordable sales price Allowance for Maintenance and Utilities should be based on amounts contained in the FHA appraisal of the property, if available.
RW 16-12; Affordable Sales Price Calculations - Alternative B - where household income exceeds the lower income level.	<ul style="list-style-type: none"> • The Allowance for Maintenance and Utilities (Item IV) should be handled in the same manner as described above for Alternative A. • Federal Income Taxes withheld (Item II), based on marital status and number of exemptions, must be taken from the Internal Revenue Service's most recent Circular E and Supplement Reprint (Publication 15), a copy of which should be available in District Personnel Offices. • State Income Taxes withheld (Item VIA), also based on marital status and number of exemptions, must be taken from the State of California Employment Development Department's most recent Employer's Tax Guide (Publication DE44), a copy of which should be available in District Personnel Offices. • Social Security Taxes withheld (Item VIB), must be taken (where applicable) from the Internal Revenue Service's most recent Social Security Employee Tax Table (Portion of Circular E), a copy of which should be available in District Personnel Offices. • Other Debts (12 months to run) (Item VIC) must be taken from the Liabilities Section of the Income Certification form.

If eligible present occupant(s)' affordable sales price calculation is equal to or exceeds the appraised fair market value of the property, the Department is required to offer the residence to the occupant at the appraised fair market value. The sale is not subject to conditions and restrictions to ensure continued affordability or restrict resale, but the Department remains liable to provide repairs.

If an eligible present occupant's income is suddenly and substantially reduced due to unemployment or other reasons, the district shall not immediately recalculate the occupant's affordable price based on the lower income level. Instead, the district shall continue to rent the residence to the present occupant and defer recalculation of the affordable sales price for up to one year if it appears possible the occupant's income will return to the prior level.

Even if present occupants are able to pay cash for a residence, their affordable price must be calculated in the normal manner. The source of such cash must, however, be explained in detail. If it is their funds, the funds must be shown on their Income Certification form. If the cash is a gift from another party, a letter regarding the gift must be obtained from the donor.

16.10.06.05 **Financing**

Excess Land should work closely with the present occupants to find the most appropriate and affordable financing program available to meet their needs. If private financing is not available, Excess Land may offer the Department's financing discussed in Section 16.08.00.00.

16.10.06.06 **Repairs**

Government Code Section 54237(b) states that whenever single-family residences are directly sold to the present occupants at an affordable price:

“The selling agency shall provide repairs required by lenders and government housing assistance programs.”

The nature of required repairs will normally appear in a termite report, lender's appraisal, city inspection report, or similar document.

Property Management should provide all required repairs expeditiously so escrow can close.

Notwithstanding the provision in Section 16.10.04.00, the proceeds to the Department may be reduced to less than the original acquisition price by the amount required for repairs.

If the Department becomes the lender or if the occupants choose to pay all cash for a property, required repairs are determined by obtaining both an FHA Section 203(b) appraisal through a lending institution and a termite inspection report. Thus it can be said that repairs required by a government housing assistance program were provided.

In those instances where the cost of repairs appears excessive, Government Code Section 54237.5 allows the Department to provide the present occupants with a replacement dwelling if all of the following conditions exist:

- Providing a replacement dwelling is less expensive than providing the repairs required by Section 54237(b).
- The replacement dwelling is determined to have all of the following characteristics:
 - Is DS&S.
 - Is suitable to the occupancy needs of the household as provided under HUD regulations issued pursuant to Section 8, United States Housing Act of 1937.
 - Is open to all persons regardless of race, color, religion, sex, or national origin and consistent with requirements of Title 8, Civil Rights Act of 1978.
 - Is in an area generally not less desirable than the dwelling to be acquired in regard to public utilities and public and commercial facilities.
 - Is reasonably accessible to displacee's place of employment.
 - Is in an equal or better neighborhood.
 - Is affordable, as defined in Section 54236(a), to displacee.

- The offer is made at an affordable price that is not less than the price the Department paid for original acquisition of the unit now occupied by displacee or the replacement unit, whichever is less, and is not more than market value.
- The replacement dwelling is newly constructed or a vacant residential unit. No resident shall be displaced pursuant to Section 7260 for the purpose of creating a replacement unit.

If the eligible present occupants decline to accept a replacement dwelling under the above circumstances, the Department's obligation to offer them a single-family residence shall be considered fulfilled. The property cannot, however, be immediately sold at market value; it must first be offered to housing-related private and/or public entities.

The Department is obligated under Government Code Section 7265.3 to provide specified types of relocation assistance to persons temporarily displaced from their dwellings as the result of repairs and rehabilitation work financed by the Department. See Relocation Assistance Chapter for details.

16.10.06.07 **Agreement For Purchase of Real Property**

If the present occupants (tenants) are eligible and desire to purchase directly at an affordable price the single-family residence in which they reside, they shall sign an Agreement for the Purchase of Real Property, Sale to Present Occupants, Form RW 16-9.

Excess Land must obtain Legal Division approval before using any other form of agreement.

The offer letter to the present occupant(s) should include the following elements:

- Occupants should be given 30 days to sign the Agreement for the Purchase of Real Property and place \$1,000 good faith deposit into escrow.
- Occupants should be given an additional 60 days to obtain a firm financing commitment.
- The district should commit to completing repairs as quickly as possible after being notified by the lender of any repairs required by the lender and government housing assistance program (if one is used).
- Both the district and the occupant-buyers should commit to closing escrow as quickly as possible after executing the Agreement for the Purchase of Real Property.

16.10.06.08 **Resale Controls**

Government Code Section 54237(b) provides that:

“When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions to assure that such housing will remain available to persons and families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income.”

Excess Land shall use Right to Purchase Agreement Between Caltrans and Buyer, Form RW 16-13, as the resale control document referred to above.

Excess Land must meet with the present occupants and explain the Right to Purchase Agreement before it is signed. It is recommended that the sales price amount in paragraph 4 and median income amount in paragraph 6(E) be filled in and initialed just prior to close of escrow.

The Department, HCD, and HUD have fully approved the Right to Purchase Agreement. The CTC has only approved use of this document on selected rescinded routes. The district should check with HQ R/W to determine if CTC approval has been obtained for routes in their district.

A Delegation of Authority from the Director to enable appropriate district employees to execute this document will be processed if a delegation does not presently exist.

The following clause must be added (immediately following the property description) to each Director's Deed pertaining to a surplus residential property disposed of at an affordable price that is less than current fair market value:

“As a covenant running with the land, this conveyance is made subject to those conditions, restrictions, limitations, and terms contained in that certain Right to Purchase Agreement, dated _____, between the grantor, State of California, and the Grantees, _____, attached to this deed and made a part hereof by this reference, binding upon all heirs, devisees, successors, assignees, and subsequent purchasers.”

16.10.06.09 **Required Documents**

District files for disposal of single-family residences pursuant to Government Code Section 54237 shall contain the following documents:

- Director's Deed - with appropriate vesting and clause referring to Right to Purchase Agreement between Department and buyer.
- Résumé - (Form RW 16-8).
- Staff or lender's appraisal - with indication that lender's appraisal has or has not been approved by District Appraisals.
- Affordable Sales Price Calculation - copy of completed form.
- Income Certification - copy of executed document.
- Form RW 16-1.
- Agreement for the Purchase of Real Property, Sale to Present Occupants - copy of executed agreement.

The Director's Deed submittal package submitted to HQ R/W for placement on the CTC agenda shall consist of the Excess Land Transaction Résumé (Form RW 16-8) and the original and one copy of the Director's Deed.

16.10.06.10 **Lender-Required Appraisals**

Most lenders will require an independently prepared FHA, VA, Cal-Vet, or other appraisal before an escrow can be finalized. A lender-required appraisal establishes that a loan is well secured and does not affect the Department's sales price.

A reasonable determination of fair market value is desired as the Department has a responsibility to the purchasers of surplus residential properties, as well as a responsibility to account for the cost of this disposal program.

Excess Land must obtain a copy of the lender's complete appraisal and retain it in the parcel file. For FHA appraisals, this includes what is considered a work sheet that lists the specific comparable sales used by the FHA appraiser.

The Department will accept a lender-required appraisal in lieu of a staff appraisal when a surplus residential property is disposed of at less than current appraised fair market value pursuant to SB 86.

Appraisals is not required to review lender appraisals.

If there is no lender-required appraisal, a staff fair market value appraisal must be completed in accordance with existing instructions.

16.10.06.11 **Property Taxes After Sale**

By letter dated July 7, 1981 (attached as Exhibit 16-EX-20) to all County Assessors, the State Board of Equalization indicated that the Department's resale control document (Right to Purchase Agreement) is a land use restriction within the meaning of Revenue and Taxation Code Section 402.1. Consequently, the valuation for tax purposes of properties subject to this Agreement should be based upon the property's sales price.

16.10.06.12 **Check List**

- Determine present occupants' term of residency from Rental Agreement.
- Meet with present occupants to explain sales program and obtain Income Certification.
- Verify occupants' income.
- Calculate estimated affordable sales price for present occupants who are eligible based on term of residency and income.
- Have Agreement for the Purchase of Real Property, Sale to Present Occupants signed, with copy to lender and open escrow.
- Have present occupants contact lender to prequalify for loan.
- Order appraisal through lender.
- Order termite report.
- Have present occupants qualify for loan.
- Have Appraisals review lender's appraisal and concur with value.
- Prepare estimates for all termite work and other repairs required by termite company or lender.
- Submit Director's Deed submittal package to HQ R/W for CTC review and approval.
- Compare information on Income Certification with information on loan application and recalculate affordable price, if necessary.
- Upon CTC approval of sale, have all required repairs completed.
- Calculate final affordable sales price.
- Sign Right to Purchase Agreement and place into escrow.

NOTE: When transmitting final documents, such as Right to Purchase Agreement, to escrow, the escrow agent must be told that such documents are good for only a limited time, say 30 days. This will allow submittal of new documents, where necessary, if the interest rate changes requiring recalculation of affordable price, or if the median income changes requiring change to paragraph 6.E. of Right to Purchase Agreement.

- Close escrow.

16.10.07.00 **Sales to Housing-Related Private and Public Entities**

Government Code Section 54237(d) states that the Department shall offer all surplus residential properties not purchased by the former owners or the present occupants:

“... to housing-related private and public entities at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that the purchasing entity shall cause the property to be rehabilitated and developed as limited equity cooperative housing with first right of occupancy to present occupants, except that where the development of such cooperative or cooperatives is not feasible, the purchasing agency shall cause the property to be used for low and moderate income rental or owner-occupied housing, with first right of occupancy to the present tenants. The price of the property in no case shall be less than the price paid by the agency for original acquisition unless the acquisition price was greater than current fair market value, and shall not be greater than current fair market value. Subject to the foregoing, it shall be set at the level necessary to provide housing at affordable rents and affordable prices for present tenants and persons and families of low or moderate income. When such residential property is offered at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions as will assure that such housing will remain available to persons and families of low or moderate income. HCD shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions.”

It is important to note the following:

- Sales price must be reasonable, but not less than the Department’s original acquisition price.
- Purchasing entity, not the Department, shall rehabilitate the property.
- The present occupants shall have the first right of occupancy after sale at an affordable price or affordable rent.
- Resale and re-rent controls are necessary if properties sell for less than fair market value.

16.10.08.00 **Request for Proposals**

Offers to housing-related private and public entities are accomplished by a Request for Proposals (RFP) process using Form RW 16-14.

Income Certifications, Form RW 16-10, should be obtained from as many present occupants of offered surplus residential properties as possible so interested housing entities can estimate the affordable rental income the property will generate.

The RFP should be sent to all known housing-related entities in the district. A booklet entitled “Roster-California Housing Authorities,” available from HCD, lists housing authorities and other housing offices in the State.

At the time the RFP is distributed, a notification shall be placed in the real estate classified section of newspapers of general circulation in the area where the properties are located (see Exhibit 16-EX-21). The notification should include addresses of the properties available for sale and should appear in the newspapers for three consecutive days. The newspaper notification helps identify any other housing-related entities that may be interested in acquiring the properties.

So that housing entities have sufficient time to gather and review all information necessary to submit a proposal, copies of the RFP shall be distributed at least 90 days prior to the deadline for submitting proposals.

16.10.08.01 **Review and Selection of Proposals**

A three-member committee consisting of one representative each from District Right of Way, HQ R/W, and HCD reviews proposals for acceptance.

Appraisal staff reviews each Proposal Form (RFP Attachment B) to validate the reasonableness of offers.

Thereafter the committee reviews and selects the proposal that best meets the following priorities:

- Offers the highest price to the Department.
- Serves the largest number of low- and moderate-income households at affordable prices or affordable rents.
- Demonstrates innovative use of public or private funds and is feasible in the current market.
- Serves an underserved segment of the community as defined in the local jurisdiction's Housing Element of its General Plan, if such an element has been finalized.

16.10.08.02 **Financing**

The Department may offer financing as discussed in Section 16.08.00.00.

16.10.08.03 **Agreement for the Purchase of Real Property**

The housing-related entity submitting the best proposal must immediately sign a copy of an Agreement for the Purchase of Real Property, Sale to Housing Entity, Form RW 16-15.

16.10.09.00 **Resale Controls - Sale to Housing Entity**

Excess Land shall use Note and Agreement Secured by a Deed of Trust and Deed of Trust, Forms RW 16-16 and RW 16-17, when surplus residential properties are sold to housing-related entities at a reasonable price that is less than current fair market value.

Excess Land must administer the Note and Agreement, Form RW 16-16, for a minimum of 30 years after the document is recorded. Administration includes the activities listed in the sections below.

16.10.09.01 **File Maintenance**

Excess Land shall maintain files for all surplus residential properties sold to housing entities subject to the Note and Agreement along with a list of the files. The files must be readily available for the duration of the resale controls and include the following:

- All documents submitted to the CTC (see Section 16.10.10.00 below).
- Details of the condition of the property at time of sale, including repairs required by lenders pursuant to paragraph 9 of the Agreement for the Purchase of Real Property, Sale to Housing Entity, Form RW 16-15.
- List of household income and rental schedule for the initial occupant(s).

16.10.09.02 **Annual Review of Properties Sold to Housing Entities**

Excess Land shall annually review all properties sold to housing entities subject to a Note and Agreement Secured by a Deed of Trust to determine if the following restrictions are being adhered to:

- Buyer is using the property to provide housing to families of low and moderate income in accordance with Government Code Section 54235, et seq.
- Buyer is charging rent that is not in excess of affordable rent for occupants of the property. To ensure this, buyer is required each February 1 to submit a report detailing use of the property and rental rates charged for the preceding year.
- Buyer has rehabilitated the property as required per paragraph 9 of the Agreement for the Purchase of Real Property and is maintaining it in compliance with applicable local building and safety regulations.
- Buyer has not sold or otherwise transferred the property without prior written consent of the Department.
- Buyer has at all times maintained fire insurance on the property at a level of at least 80% of replacement cost and has provided that the insurance policy names the Department as an additional insured. Excess Land should ask buyer to send a copy of the annual fire insurance renewal notice to the district for its file on the property.

16.10.09.03 **Determination of Noncompliance**

If the violation can be corrected, buyer shall be given 60 days to rectify the violation.

If the buyer does not rectify the violation within the 60-day period, the district may declare the buyer to be in default of the terms of the Note and Agreement and proceed to foreclose in accordance with the terms of the Note and Agreement and the Trust Deed.

The Note and Agreement provides that if the buyer violates the terms, conditions, and restrictions and the district institutes foreclosure proceedings, the buyer agrees to pay the Department a principal amount equal to the difference between the actual price paid by buyer for the property and the current fair market value, as determined by the Department, plus 6% simple interest per year on such amount, for the period of time the property has been held by the buyer.

Because of the complexity of the resale control mechanism and possible litigation, HQ R/W may be contacted prior to beginning formal foreclosure proceedings.

16.10.09.04 **Overhead Costs**

Costs of administering resale controls shall be charged to EA 952137, MSA Code 662.

16.10.10.00 **Submittal to CTC**

District files for disposal of surplus residential properties at a reasonable price to housing-related entities shall contain the following documents:

- Director's Deed - with appropriate vesting.
- Resale Control Document - executed copy.
- Résumé - Form RW 16-8.
- Staff or lender's appraisal - with indication that lender's appraisal has or has not been approved by Appraisals.
- Selected Proposal.
- Form RW 16-1.
- Agreement for the Purchase of Real Property, Sale to Housing Entity - copy of executed agreement.

The Director's Deed submittal package submitted to HQ R/W for placement on the CTC agenda shall consist of the Excess Land Transaction Résumé (Form RW 16-8) and the original and one copy of the Director's Deed.

16.10.11.00 **Sales at Fair Market Value**

Government Code Section 54237(e) states that any surplus residential property not sold to former owners still in occupancy or to housing-related private and public entities:

“... shall then be sold at fair market value, with priority given first to purchasers who are present occupants and then to purchasers who will be owner occupants.”

16.10.11.01 **Sales to Present Occupants**

If the present occupants have the financial capability and are interested in direct purchase of the single-family residence in which they reside at current fair market value, the district should obtain a staff market value appraisal as quickly as possible and complete a sale in the normal manner.

If the property consists of more than one residential unit (e.g., duplex and triplex), the property must be sold pursuant to normal public sales procedures (see Section 16.05.04.00).

The property shall be sold “as is” since the Department is not obligated to provide repairs required by lenders or government housing assistance programs when selling surplus residential properties at fair market value pursuant to Government Code Section 54237(e).

In addition, there shall be no resale control document since the buyer is paying fair market value.

16.10.11.02 **Sales to Non-Occupant Purchasers Who Will Become Owner Occupants**

Surplus residential properties that remain unsold shall be set for a public sale.

Bids are invited from all bidders regardless of their willingness to sign an Owner-Occupant Certification, Form RW 16-21. Upon completion of bidding, the high bidder's status as to owner occupancy requirements is determined as follows:

- If the high bidder is willing to sign the Owner-Occupant Certification, they are determined to be the successful bidder.

- If the high bidder is not willing to sign the Owner-Occupant Certification, the auctioneer asks if anyone in attendance is willing to match or exceed the high bid and sign the Owner-Occupant Certification. An owner-occupant certifier who matches or exceeds the high bid is determined to be the successful bidder.
- If the high bidder is not willing to sign the Owner-Occupant Certification and no one else is willing to sign the Owner-Occupant Certification and match or exceed the high bid, the residence is sold to the high bidder without regard to occupancy.
- If two or more bidders are willing to sign the Owner-Occupant Certification and match or exceed the high bid, bids are opened to all bidders and the procedure outlined above is used to determine the successful bidder.

The successful bidder who receives preference by signing an Owner-Occupant Certification is not allowed to assign their interest. Any assignment will result in cancellation of the sale and retention of the bid deposit.

16.10.12.00 Administration of Resale Controls After Sale to Present Occupants

Unlike most other excess property sales, the Department's involvement with surplus single family residences sold for less than market value at an affordable price does not terminate upon recordation of the Director's Deed.

Excess Land must administer the Right to Purchase Agreement, Form RW 16-13, between the Department and buyer for a minimum of 30 years after the document is recorded. Administration includes the activities discussed in the sections below.

These parcels are entered in the ELMS with Follow-Up Codes 4. or 8. and are shown in the RWM 824-Post Disposal Management Report.

16.10.12.01 File Maintenance

Excess Land shall maintain files for surplus single family residences sold subject to a Right to Purchase Agreement along with a list of the files. The files must be readily available for the duration of the resale controls and include the following:

- All documents listed in Section 16.10.10.00 above.
- Detailed interior and exterior photographs of the SFR depicting its condition at time of sale by the Department, including those repairs provided by the Department pursuant to Section 16.10.06.06 above.
- A copy of the specifications detailing the repairs referred to above.
- If buyer secured financing to buy the property, the lender must include in the deed of trust securing the note a provision that any power of sale is subject to the Right to Purchase Agreement. This occurs at time of initial sale and can be confirmed by obtaining a copy of the deed of trust. No reconfirmation should be necessary.
- A notation in the parcel diary about the household income of the initial buyers in proportion to area median income at time of initial sale; e.g., 0-25%, 26-50%, 51-75%, 76-90%. This is necessary to aid in choosing the next buyer who should have an income comparable to the initial buyer.

16.10.12.02 **Annual Review of Properties Sold Subject to a Right to Purchase Agreement**

Excess Land shall annually review properties sold subject to a Right to Purchase Agreement. Form RW 16-23, Annual Certification of Ownership Conditions, is used to determine if the buyer has complied with the following restrictions:

- Buyer has not leased or subleased the property, or any part thereof, or allowed parties other than buyer to live in the property without the prior express written consent of the district. A personal interview with the buyer at the residence should be sufficient to determine if this has occurred.
- Except for purposes of repairing or maintaining the property, buyer has not encumbered the property or any interest therein, in whole or in part, without the prior express written consent of the district.

Excess Land must review records in either the County Recorder's office or a title company to make such a determination.

- Buyer has not made any substantial improvement to the property without the prior express written consent of the district.

Substantial improvements are those that materially add to the value of the property or adapt it to new uses. Examples are: putting a recreation room in an unfinished basement, adding another bathroom or bedroom, adding a swimming pool, enlarging a garage, installing a fireplace, or constructing a patio.

Substantial improvements do not include emergency repairs, maintenance, or work required by building or housing codes.

An annual personal inspection and comparison of photographs taken of the property at time of sale and after repairs had been completed should reveal if buyer has complied with this restriction.

- Buyer has not sold, transferred, or assigned the property or any interest therein, in whole or in part, or agreed to do so, except for transfers to the buyer's spouse or children occasioned by the death or divorce of the buyer, without first complying with the procedures set out in paragraph 6 of the Right to Purchase Agreement.

Excess Land must review records in either the County Recorder's office or a title company to make such a determination.

- Buyer has at all times maintained insurance on the property at a level of at least 80% of replacement cost and has provided that the insurance policy names the Department as an additional insured.

Excess Land should ask buyer to send a copy of the annual fire insurance renewal notice to the district for its file on the property.

- Buyer has maintained property in compliance with applicable local building and safety regulations.

Nothing in the Right to Purchase Agreement between the Department and buyer requires the buyer to maintain the property to any set standard. The buyer should be put on notice that the cost of repairs, rehabilitation, or replacement beyond the requirements of normal maintenance will be borne by the buyer if the buyer desires to sell the property.

16.10.13.00 **Response to Requests and Inquiries**

The nature of the Right to Purchase Agreement will result in the types of requests or inquiries from buyers shown on the table below.

REQUESTS/INQUIRIES - RIGHT TO PURCHASE AGREEMENT	
Inquiry	Response
Buyer requests to lease or sublease the property or allow parties other than buyer to live in the property.	<p>Requests related to normal household growth may be approved if it is clear that the household growth is not merely bringing in other family members to share housing costs. Normal household growth is defined as increases in family size resulting from natural or adoptive children or other new family members in a clear dependency relationship, such as elderly or invalid parents who must live with the initial occupant-buyer.</p> <p>Excess Land may also authorize a nurse or companion to live in the property if the buyer's medical condition requires live-in assistance.</p> <p>Excess Land may not approve any requests to lease or sublease the property.</p>
Buyer requests to add substantial improvements to the property.	<p>As indicated in the Right to Purchase Agreement, an objective of this program is to ensure that properties remain affordable to households with incomes no greater than the income of the initial buyers in proportion to the area median income.</p> <p>Consequently, the Department shall minimize substantial improvements to any property by approving only those improvements that:</p> <ul style="list-style-type: none">• Cost the buyer less than \$3,000; or• Are necessary to accommodate normal household growth; or• Are necessary for medical reasons; or• Increase the energy efficiency of the residence as supported by an energy audit report or review conducted by a utility company or similar entity. Such improvements may include, for example, solar heating systems, double-pane windows, and insulation. <p>Excess Land may approve improvements that meet any of the above criteria after receipt of building plans approved by the local jurisdiction.</p>
Buyer requests to encumber or refinance a property for purposes other than for repair or maintenance of the property.	<p>When the buyer requests approval to refinance the existing loan(s) for the purpose of lowering the existing interest rate, Excess Land may process the request after district senior level or above review and approval. Such refinancing must be limited to the remaining balance of the existing loan(s), and the Department must not incur any costs as a result of this transaction.</p> <p>Excess Land may also approve requests to encumber or refinance property for purposes of making substantial improvements as noted above.</p> <p>In this category, refinancing is allowed up to the calculated amount that buyers would be entitled to in case of resale to the State (original selling price plus increased equity in relation to median income). No cost to the Department is allowed. District senior level or above review and approval of the proposal is required. Encumbrances involved in repair or maintenance of the property do not require approval.</p> <p>No other requests for refinancing are authorized.</p>

16.10.14.00 **Notice Of Intent To Sell, Transfer, or Assign**

In the event that buyer, buyer's spouse or children who have title by reason of the death or divorce of buyer, or any owner who has title derived through foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise desire to sell, transfer, or assign a property, they must notify the district in writing by certified mail of the intent to sell, transfer, or assign (hereinafter Notice of Intent).

The Department or its designee has 60 calendar days from the date of receipt of Notice of Intent in which to exercise its right to purchase the property. Because of the time limit, it is critical that Excess Land immediately begin the actions in the table on the following pages.

NOTE: The Department may exercise its right to purchase only for the purpose of making the property available to a person or family of low or moderate income or to a household with an income no greater than the income of the present occupants in proportion to the area median income at the time of sale.

If no prospective purchasers respond to newspaper advertisements or can be found through other means or if (after inspection of the available property by prospective purchasers) no household indicates a desire to purchase the residence at an affordable price, Excess Land shall assist owner in conducting a market value sale.

NOTE: ON RESCINDED ROUTE 7-LA-2 ONLY, if the Department fails to deliver a Notice of Acceptance within 60 days after receipt of the Notice of Intent, HCD or its designee may exercise the Right to Purchase by delivering a written Notice of Acceptance to buyer by personal delivery or certified mail within 30 days after the date on which the Department's 60 days to exercise has expired.

Only if HCD waives its right or fails to act within its 30-day limit, does Excess Land assist the owner in conducting a fair market value sale.

Excess Land must also complete action Items Nos. 1-5 listed above when properties are sold at market value and must notify escrow company about proper distribution of sales proceeds.

RESALE TIME LINE	
Step	Time (after receipt of Notice of Intent)
1.	Buyer sends NOTICE OF INTENT.
2.	Department receives NOTICE OF INTENT.
3.	Contact owner to set appointment for inspection. (Day 4)
4.	Inspect property and complete Part I and Part II of Property Information Form.
5.	Deliver advertisement for prospective buyers delivered to local newspaper. (Day 7)
6.	Advertisement appears in local newspaper. (Days 9, 10, 11) NOTE: If ad does not produce prospective buyer, ad should be rerun. Time schedule through Step 7 should be adjusted accordingly.
7.	Deadline for prospective purchasers to contact the Department and set up meeting for income certification. (Day 18)
8.	Deadline for prospective purchasers to complete Income Certification. (Day 25)
9.	Complete income verifications and set up opportunities to inspect property. (Day 31)
10.	Prospective purchasers inspect property. (By Day 40)
11.	Prospective purchasers decide to purchase property. (By Day 45)
12.	Prospective purchasers sign Purchase Agreement with deposit. (By Day 50)
13.	Buyer receives NOTICE OF ACCEPTANCE from Department. (By Day 60)
14.	Buyer receives NOTICE OF ACCEPTANCE from HCD (if Department does not deliver same) - Route 2 only. (By Day 90)
15.	Sales escrow opened. (By Day 75 if not Rte. 2); (By Day 105 if Rte. 2)
16.	Sales escrow closed.

EXERCISING RIGHT TO PURCHASE		
Step	Action	Explanation
1.	Upon receipt of Notice of Intent, make arrangements to inspect the property.	The property is inspected to determine if repairs, rehabilitation, or replacements beyond the requirements of normal maintenance are necessary to put the residence into salable condition and to complete the Property Information Form, Form RW 16-25.
2.	If fix-up work is found to be necessary, estimate the cost of such work.	Notify the present owners that the required repairs must be completed prior to close of escrow and that the cost will either be deducted in escrow from their share of the sales proceeds or paid by them outside of and prior to close of escrow.
3.	Determine the current value of any substantial improvements, if such improvements had the district's prior written approval.	
4.	Determine the gross purchase price; i.e., the base price adjusted upward for any increase in county median income between the date that present owner took title to the residence and the date that delivery of the Notice of Acceptance is expected (60 th day after the district receives Notice of Intent) plus the value of any approved substantial improvements.	HQ R/W shall obtain the current median household income for a family of four, which shall be determined on the basis of county median income figures published by HUD or on the basis of figures published by HCD if HUD does not publish such figures.
5.	Complete Property Improvement Form (RW 16-25).	Upon completion of Part I, have the present owner(s) sign Part II.
6.	Advertise availability of unit.	Immediately advertise in appropriate local newspapers (see Exhibit 16-EX-22). Advertisements should include the specific address of the available property and should appear in the real estate section of appropriate newspapers for at least three consecutive days.
7.	Send Notice of Affordable Housing Resale Program, Form RW 16-22, and Income Certification, Form RW 16-10, to each household that responds to the advertisement.	All Income Certifications returned by interested households shall be date-stamped upon receipt and verified by Excess Land. Households qualified on the basis of verified income and size shall be listed in order of receipt of their Income Certification.
8.	Qualify prospective purchasers.	Determine whether they are: <ul style="list-style-type: none"> Interested in the geographical area where the available property is located. In the same income category as original buyer (adjusted for family size). Eligible for Section 235 loan assumption, where applicable. Comparable in household size to original buyer or appropriate in household size to available property (based on number of bedrooms). In addition, Excess Land may use the services of the local housing agency or other housing entities to identify potentially interested households.

EXERCISING RIGHT TO PURCHASE (Continued)		
Step	Action	Explanation
9.	Have first three interested prospective purchasers on list inspect available property.	Within 40 calendar days from receipt of the Notice of Intent.
10.	Deliver offer letters to first three interested prospective purchasers on list and indicate their place on list (first, second, or third) based on time of the district's receipt of initial Income Certification.	Within 45 calendar days from receipt of the Notice of Intent. Inform prospective purchasers that they must return executed Purchase Agreement and \$500 deposit (cashier's check or money order) within five calendar days of receipt of offer letter. Prospective purchasers must be informed and Purchase Agreement must contain a provision that offer will be withdrawn and deposit returned if higher priority prospective purchaser consummates sale.
11.	Deliver a written Notice of Acceptance, Form RW 16-26, to the current owner by personal delivery or certified mail within 60 calendar days of receipt of the Notice of Intent.	Only if bona fide deposit(s) and executed Purchase Agreement(s) are received by district within 50 calendar days of receipt of the Notice of Intent.
12.	Open a sales escrow with new buyer shown as "Department of Transportation or Assignee."	Within 15 calendar days after the Notice of Acceptance is delivered.
13.	Assist top priority buyer to obtain purchase financing.	
14.	Have new buyer execute a Right to Purchase Agreement.	
15.	Assist new buyer to obtain insurance on the property to ensure no lapse in coverage.	
16.	Monitor all escrow paperwork and assist in finalizing escrow in a timely manner by determining final gross purchase price and net purchase price, etc.	
17.	If proposed buyer does not consummate purchase in reasonable escrow period, begin escrow process with next highest priority buyer with deposit.	

16.10.15.00 **Determination of Noncompliance**

Excess Land shall follow the procedures listed in the table below if it determines that any of the following violations of the Right of Purchase Agreement have occurred:

- Owner has leased or subleased the property, or any part thereof, or allowed parties other than owner to live in the property without the district's prior express written consent.
- Except for purposes of repairing or maintaining the property, owner has encumbered the property or any interest therein without the district's prior express written consent.
- Owner has added a substantial improvement without the district's prior express written consent.

Action	Explanation
Attempt to have violation remedied within 60 days of determination of noncompliance.	<p>If it is found upon closer examination that approval could have been granted pursuant to Section 16.08.09.00.D had the owner requested, Excess Land should remedy the violation by granting such approval in writing.</p> <p>If it is found that approval cannot be granted, Excess Land shall give the owner 60 days to rectify the situation; e.g., remove unauthorized renters/occupants or remove unauthorized substantial improvements that do not meet building codes.</p>
Initiate procedures to repurchase property.	<p>If upon closer examination it is found that approval could not have been granted pursuant to Section 16.10.13.00 above had the owner requested and the owner does not rectify the situation in 60 days, Excess Land shall immediately initiate the procedures set forth in Section 16.10.14.00 above, except in those instances where the violation stems from the unauthorized addition of substantial improvements that meet all building codes.</p> <p>Excess Land shall simultaneously advise HQ R/W that procedures are being initiated and the nature of the owner's violation that cannot be remedied.</p>
Notify owner that gross purchase price upon resale will not include current value of unauthorized substantial improvement.	<p>If substantial improvements are made by the owner that comply with all applicable building codes but that cannot and are not approved by the district, the owner shall be notified in writing that the gross purchase price upon resale will not be increased by the current value of such improvements; i.e., the owner will not recover either the cost or value of such improvements if they wish to sell the property while the resale controls are in force.</p>
Require owner (initial buyer) to pay the Department the difference between the actual price paid by owner (the base price) and the fair market value of the property, as determined by the district, at the time of noncompliance plus 6% interest for the time the owner has held the property.	<p>Only as a last resort will the Department attempt to obtain this payment since such an amount could exceed the current fair market value of the property and could be exceedingly difficult to collect in any event.</p>

If the owner has sold, transferred, or assigned the property or any interest therein, in whole or in part, or has agreed to do so without first notifying the district in writing by certified mail (i.e., sent the district a Notice of Intent), the district shall immediately initiate the procedures set forth above.

If Excess Land determines that other violations of the Right to Purchase Agreement have occurred, it shall advise HQ R/W and take appropriate action.

16.10.16.00 **Notice of Default or Notice of Sale**

If the buyer defaults on the deed of trust/mortgage payments, a Notice of Default may be recorded pursuant to Civil Code Section 2924 (b) and mailed to the district. Upon receipt of a Notice of Default, Excess Land should contact the buyer and determine if the default will be resolved before a trustee's sale occurs.

If a Notice of Sale is given pursuant to Civil Code Section 2924 (f), the Notice of Sale shall constitute a Notice of Intent. Excess Land shall immediately initiate the procedures outlined above if it has a list of prospective purchasers.

If there is no list of prospective purchasers or if no household indicates a desire to purchase the residence at an affordable price after inspection of the property by prospective purchasers, Excess Land will not exercise the right to purchase and the property may be sold at trustee's sale of foreclosure or by deed in lieu of foreclosure.

NOTE: On Rescinded Route 07-LA-2 only, HCD also has a Right to Purchase that it may exercise if the Department does not.

In those instances where a trustee's sale occurs, Excess Land shall:

- Complete action Items Nos. 2, 3, and 4 listed above to ensure that Trustee distributes any surplus proceeds in the proper manner.
- Arrange with Accounting to be in a position to bid at the trustee sale to prevent a third party from obtaining title to the property for less than market value. When the district plans to bid at a trustee/foreclosure sale, a warrant can be drawn from the revolving fund. Authorization for the warrant is contained in the Accounting Manual. Use the same process as used for Bid Deposits. Instructions from Accounting will be needed to clear the warrant.
- The district must simultaneously prepare a fair market value appraisal to determine the amount to bid.

16.10.17.00 **Damaged Property**

If the property is damaged and the insurance proceeds are not to be used to rebuild, Excess Land shall assist buyer in selling the property at market value.

In that event or in the event of acquisition for a public use, the district shall complete action Items Nos. 2, 3, and 4 listed above to ensure that proceeds of sale are distributed by an escrow company in the proper manner.

16.10.18.00 **Replacement Housing**

The Relocation Assistance Branch is responsible for replacement of low- and moderate-income housing (see Chapter 10). Replacement housing, also referred to as replenishment housing, exists in Districts 4, 5, and 8.

Although the program has been discontinued, Excess Land is required to administer resale and rental rate controls in accordance with the terms of sale. HQ R/W will include this item in its Compliance Reviews.

If Excess Land disposes of a replacement housing unit for less than fair market value, it shall impose terms, conditions, and restrictions for up to 30 years:

- To assure that the housing unit will remain available and affordable to persons and families of the same income level as that of the initial occupant of the unit.
- To prevent windfall profits.

Costs of administering resale controls are charged to EA 952137, MSA Code 662.

Excess Land may authorize any public or private housing-related entity that acquires a replacement housing unit to change the rental rate of occupants not more than once annually provided the housing unit remains affordable to the same category of households (low or moderate income) as at the time of initial acquisition by the entity.

Replacement Housing units are entered in the ELMS with follow-up Code 5. These are shown in the RWM 824-Post Disposal Management Report.

NOTES: